

Department of Energy

§ 430.35

shall be rounded up to the higher of these values.

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§ 430.33 Preemption of State regulations.

(a) Any State regulation providing for any energy conservation standard, or water conservation standard (in the case of faucets, showerheads, water closets, and urinals), or other requirement with respect to the energy efficiency, energy use, or water use (in the case of faucets, showerheads, water closets, or urinals) of a covered product that is not identical to a Federal standard in effect under this subpart is preempted by that standard, except as provided for in sections 325(i)(6)(A)(vi), 327(b) and (c) of the Act.

(b) No State regulation, or revision thereof, concerning the energy efficiency, energy use, or water use of the covered product shall be effective with respect to such covered product, unless the State regulation or revision in the case of any portion of any regulation that establishes requirements for general service incandescent lamps, intermediate base incandescent lamps, or candelabra base lamps, was enacted or adopted by the State of California or Nevada before December 4, 2007, except that—

(1) The regulation adopted by the California Energy Commission with an effective date of January 1, 2008, shall only be effective until the effective date of the Federal standard for the applicable lamp category under paragraphs (A), (B), and (C) of section 325(i)(1) of EPCA;

(2) The States of California and Nevada may, at any time, modify or adopt a State standard for general service lamps to conform with Federal standards with effective dates no earlier than 12 months prior to the Federal effective dates prescribed under paragraphs (A), (B), and (C) of section 325(i)(1) of EPCA, at which time any prior regulations adopted by the State of California or Nevada shall no longer be effective; and

(3) All other States may, at any time, modify or adopt a State standard for

general service lamps to conform with Federal standards and effective dates.

[63 FR 13318, Mar. 18, 1998, as amended at 74 FR 12070, Mar. 23, 2009]

§ 430.34 Energy and water conservation standards amendments

The Department of Energy may not prescribe any amended standard which increases the maximum allowable energy use or, in the case of showerheads, faucets, water closets or urinals, the maximum allowable water use, or which decreases the minimum required energy efficiency of a covered product.

[67 FR 36406, May 23, 2002]

§ 430.35 Petitions with respect to general service lamps.

(a) Any person may petition the Secretary for an exemption for a type of general service lamp from the requirements of this subpart. The Secretary may grant an exemption only to the extent that the Secretary finds, after a hearing and opportunity for public comment, that it is not technically feasible to serve a specialized lighting application (such as a military, medical, public safety or certified historic lighting application) using a lamp that meets the requirements of this subpart. To grant an exemption for a product under this paragraph, the Secretary shall include, as an additional criterion, that the exempted product is unlikely to be used in a general service lighting application.

(b) Any person may petition the Secretary to establish standards for lamp shapes or bases that are excluded from the definition of general service lamps. The petition shall include evidence that the availability or sales of exempted lamps have increased significantly since December 19, 2007. The Secretary shall grant a petition if the Secretary finds that:

(1) The petition presents evidence that demonstrates that commercial availability or sales of exempted incandescent lamp types have increased significantly since December 19, 2007 and are being widely used in general lighting applications; and

(2) Significant energy savings could be achieved by covering exempted

products, as determined by the Secretary based on sales data provided to the Secretary from manufacturers and importers.

[74 FR 12070, Mar. 23, 2009]

APPENDIX A TO SUBPART C OF PART 430—PROCEDURES, INTERPRETATIONS AND POLICIES FOR CONSIDERATION OF NEW OR REVISED ENERGY CONSERVATION STANDARDS FOR CONSUMER PRODUCTS

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1. Objectives

This Appendix establishes procedures, interpretations and policies to guide the DOE in the consideration and promulgation of new or revised appliance efficiency standards under the Energy Policy and Conservation Act (EPCA). The Department's objectives in establishing these guidelines include:

(a) *Provide for early input from stakeholders.* The Department seeks to provide opportunities for public input early in the rulemaking process so that the initiation and direction of rulemakings is informed by comment from interested parties. Under the guidelines established by this Appendix, DOE will seek early input from interested parties in setting rulemaking priorities and structuring the analyses for particular products. Interested parties will be invited to provide input for the selection of design options and will help DOE identify analysis, data, and modeling needs. DOE will gather input from interested parties through a variety of mechanisms, including public workshops.

(b) *Increase predictability of the rulemaking timetable.* The Department seeks to make informed, strategic decisions about how to deploy its resources on the range of possible standards development activities, and to announce these prioritization decisions so that

all interested parties have a common expectation about the timing of different rule-making activities. The guidelines in this Appendix provide for setting priorities and timetables for standards development and test procedure modification and reflect these priorities in the Regulatory Agenda.

(c) *Increase use of outside technical expertise.* The Department seeks to expand its use of outside technical experts in evaluating product-specific engineering issues to ensure that decisions on technical issues are fully informed. The guidelines in this Appendix provide for increased use of outside technical experts in developing, performing and reviewing the analyses. Draft analytical results will be distributed for peer and stakeholder review.

(d) *Eliminate problematic design options early in the process.* The Department seeks to eliminate from consideration, early in the process, any design options that present unacceptable problems with respect to manufacturability, consumer utility, or safety, so that the detailed analysis can focus only on viable design options. Under the guidelines in this Appendix, DOE will eliminate from consideration design options if it concludes that manufacture, installation or service of the design will be impractical, or that the design option will adversely affect the utility of the product, or if the design has adverse safety or health impacts. This screening will be done at the outset of a rulemaking.

(e) *Fully consider non-regulatory approaches.* The Department seeks to understand the effects of market forces and voluntary programs on encouraging the purchase of energy efficient products so that the incremental impacts of a new or revised standard can be accurately assessed and the Department can make informed decisions about where standards and voluntary "market pull" programs can be used most effectively. Under the guidelines in this Appendix, DOE will solicit information on the effectiveness of market forces and non-regulatory approaches for encouraging the purchase of energy efficient products, and will carefully consider this information in assessing the benefits of standards. In addition, DOE will continue to support voluntary efforts by manufacturers, retailers, utilities and others to increase product efficiency.

(f) *Conduct thorough analysis of impacts.* In addition to understanding the aggregate costs and benefits of standards, the Department seeks to understand the distribution of those costs and benefits among consumers, manufacturers and others, and the uncertainty associated with these analyses of costs and benefits, so that any adverse impacts on significant subgroups and uncertainty concerning any adverse impacts can be fully considered in selecting a standard. Under the guidelines in this Appendix, the